

N. KEITH CHAMBERS  
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>RAFAEL GARCIA,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
	)	<b>Charge No.: 2009CF1284</b>
<b>and</b>	)	<b>EEOC No.: 21BA90263</b>
	)	<b>ALS No.: 10-0029</b>
<b>DOMA SHIPPING,</b>	)	
	)	
<b>Respondent.</b>	)	<b>Judge William J. Borah</b>
	)	
	)	

**RECOMMENDED ORDER AND DECISION**

This matter comes to be heard on Respondent's Motion to Dismiss Complaint for Want of Prosecution filed on May 13, 2010. On June 2, 2010, an order was entered setting a briefing schedule for Respondent's motion. Complainant had until June 25, 2010, to file his response. A copy of the June 2, 2010, order was mailed to Complainant on June 4, 2010, as per the filed certificate of service. Complainant failed to file a response to Respondent's motion.

**FINDINGS OF FACT**

The following facts were derived from the record filed in the matter.

1. The Complaint in this matter was served upon Complainant by certified mail at her last known address.
2. The initial hearing date in this matter was April 7, 2010. The Complainant failed to appear. Respondent appeared through its attorney.
3. On April 7, 2010, an order was entered setting April 21, 2010, for a status hearing. Complainant was mailed a copy of the April 21, 2010, order as per the filed certificate of service. On April 9, 2010, an order was issued, *sua sponte*, correcting the scheduled time of the April 21, 2010, hearing. All parties were served with the April 9, 2010, order by U.S. mail by

the Commission. On April 21, 2010, Respondent appeared at the status hearing through its attorney. Complainant failed to appear. Respondent mailed a copy of the April 21, 2010, order to Complainant as per the filed the certificate of service.

4. On June 2, 2010, a hearing was set on Respondent's motion to dismiss. Respondent appeared, but Complainant was absent. As part of the June 2, 2010, order, a briefing schedule was set. Complainant had until June 25, 2010, to respond to Respondent's motion. Respondent mailed a copy of the June 2, 2010, order, as per the certificate of service.

5. Complainant failed to respond to Respondent's motion to dismiss.

#### CONCLUSIONS OF LAW

1. Complainant's failure to participate in three scheduled status hearings and his failure to respond to Respondent's motion to dismiss have unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of his claim, the complaint in this matter should be dismissed with prejudice.

#### DISCUSSION

Complainant failed to appear at three ordered hearing dates, April 7, 2010, April 21, 2010 and June 2, 2010. Complainant also failed to respond to Respondent's motion to dismiss as ordered on June 2, 2010. Proper service was given upon Complainant.

The Commission routinely dismisses abandoned cases. In Leonard and Solid Matter, Inc., IHRC, ALS No. 4942, August 25, 1992, Complainant was absent for three consecutive hearings.

Complainant has failed to comply with every order. Complainant's inaction has unreasonably delayed the proceedings in this matter.

For reasons unknown, it appears that Complainant has simply abandoned his claim. As a result, it is appropriate to dismiss his claim with prejudice.

RECOMMENDATION

Based upon the foregoing, it is recommended that an order be entered with the following provisions:

1. The Respondent's motion to dismiss complaint be granted;
2. The Complaint before the Commission and the underlying charge of discrimination be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
WILLIAM J. BORAH  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: July 7, 2010